

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES EMERGENCY MEDICAL SERVICES

[R07-291]

PREAMBLE

1. Sections Affected

R9-25-205
R9-25-305
R9-25-306
R9-25-307
R9-25-308
R9-25-309
Exhibit C

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend

2. The statutory authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 36-2202(A)(4) and 36-2209(A)(2)

Implementing statutes: A.R.S. §§ 36-2202(A)(3); 36-2204(1) and (3)-(7); and 36-2204.01

3. The effective date of the rules:

October 6, 2007

4. A list of all previous notices appearing in the *Register* addressing the final rules:

Notice of Rulemaking Docket Opening: 13 A.A.R. 488, February 16, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 1204, April 6, 2007

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Terry Mullins, Bureau Chief

Address: Arizona Department of Health Services
Bureau of Emergency Medical Services and Trauma System
150 N. 18th Ave., Suite 540
Phoenix, AZ 85007

Telephone: (602) 364-3150

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or

Name: Kathleen Phillips, Rules Administrator and Administrative Counsel

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Office of Administrative Rules and Counsel
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Notices of Final Rulemaking

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6. An explanation of the rulemaking, including the agency's reasons for initiating the rulemaking:

The purpose of this rulemaking is to:

1. Clarify whom an on-line medical director may allow to relay on-line medical direction;
2. Require training on epinephrine auto-injector administration in the Arizona EMT-B Course and the Arizona EMT-B Refresher;
3. Require Arizona EMT-P Course students to complete, during clinical training and field training, the competencies identified in 9 A.A.C. 25, Article 3, Exhibit C; and
4. Correct the URLs for the U.S. Department of Transportation, National Highway Traffic Safety Administration (NHTSA) National Standard Curricula incorporated by reference in Article 3.

The change described in item 1 above will make the language in R9-25-205(D) consistent with the language recently adopted in R9-25-204(C)(2). This is a nonsubstantive change to clarify the rule. The change in item 4 is also technical rather than substantive in nature.

The changes described in items 2 and 3 were recommended by the Education Committee, an advisory committee to the Emergency Medical Services (EMS) Council, and by the EMS Council. The change in item 2 was also recommended by the Medical Direction Commission (MDC). MDC was not asked to consider the change described in item 3.

This rulemaking also updates the name of the Bureau of Emergency Medical Services and Trauma System in the Sections in which it is included.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

ADHS did not review any studies related to this rulemaking.

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

As used in this summary, "minimal" means less than \$1,000; "moderate" means \$1,000 to \$9,999; "substantial" means \$10,000 or more; and "significant" means meaningful or important, but not readily subject to quantification.

ADHS will incur minimal-to-moderate costs resulting from the rulemaking process and will receive a significant benefit from the added training for EMT-Bs and the clinical training and field training competency requirements for EMT-Ps because the changes will result in more knowledgeable and better trained EMT-Bs and may also result in better trained EMT-Ps, which should result in improved public health.

Certified training programs and advanced life support (ALS) base hospitals that provide the Arizona EMT-B Course or the Arizona EMT-B Refresher will incur minimal-to-moderate costs from the changes in those courses. The costs will result from the time necessary to adapt existing training materials and schedules to incorporate the new training, the cost of producing any new course materials required to provide the training, and the cost to purchase sufficient epinephrine auto-injector training devices to allow for hands-on training and the required practical skills demonstration. ADHS anticipates that the cost for a certified training program to modify training course materials and schedules will not exceed \$1160, based on 40 hours of work for an individual with an annual salary of \$60,000. ADHS believes that this cost should actually be much lower. In June 2005, ADHS completed a rulemaking that made administration of epinephrine by auto-injector an optional skill for EMT-Bs, acquired through completing additional training. To make the additional training less burdensome when that rule was created, ADHS adopted a guidance document providing virtually all of the information required to be included in the training. The training described in the 2005 rule is consistent with the training now being added to the Arizona EMT-B Course and the Arizona EMT-B Refresher by this rulemaking. Thus, it should not be difficult for a training program to compile the information needed to adapt existing course materials. The cost to copy additional course materials should be minimal for each training program that provides EMT-B training, as will the cost to purchase epinephrine auto-injector training devices. The EpiPen Trainer, an epinephrine auto-injector training device that can be used over and over again, and that is available without a prescription, costs approximately \$5 each.

Certified training programs and ALS base hospitals that provide the Arizona EMT-P Course may also incur minimal-to-moderate costs as a result of the clinical training and field training competency requirements being added for that course. Although ADHS believes that most certified training programs have been monitoring and requiring completion of the competencies recommended in the NHTSA EMT-Paramedic: National Standard Curriculum (1998) (EMT-P NSC), incorporated by reference as the Arizona EMT-P Course in R9-25-308, any training program that has not been monitoring and requiring completion of those competencies will need to begin monitoring and requiring completion of the competencies included in Exhibit C to Article 3. The competencies in Exhibit C to Article 3 are a

Notices of Final Rulemaking

reduced version of the competencies recommended in the EMT-P NSC, so a training program that has been monitoring and requiring completion of the competencies in the EMT-P NSC will need to make only very minor adjustments to comply with this change. A training program that has not been monitoring and requiring completion of the competencies in the EMT-P NSC will need to create a system to monitor and document students' completion of the competencies in Exhibit C. ADHS believes that this should result in a minimal-to-moderate initial cost from the time spent creating the new system and a minimal cost per course session from the additional time needed to implement the new system.

ADHS does not anticipate that any other persons will incur costs as a result of this rulemaking. This rulemaking will benefit emergency medical services (EMS) providers because the changes will result in more knowledgeable and better trained EMT-Bs and may also result in better trained EMT-Ps. This may result in better patient outcomes.

Students in the Arizona EMT-B Course or Arizona EMT-B Refresher will receive a significant benefit because they will be more knowledgeable and better trained than EMT-Bs who have not completed training on administration of epinephrine by auto-injector. Likewise, students in the Arizona EMT-P Course who are required to comply with the new clinical training and field training competency requirements added by this rulemaking, and who would not have been required to complete the EMT-P NSC competencies, will receive a significant benefit because they will be better trained than their counterparts who were not required to complete such competencies. The general public should also receive a significant benefit from the new training and competency requirements because EMT-Bs and EMT-Ps required to complete the additional training or to comply with those new competency requirements will be more knowledgeable and better trained, which should enhance public health. The new requirement for the Arizona EMT-B Course and the Arizona EMT-B Refresher to include training on administration of epinephrine auto-injectors will especially benefit the estimated 4% of the population afflicted by severe food allergies and the numerous other individuals with severe allergies to insect stings, latex, medications, and other allergens. These individuals are the most likely to experience anaphylaxis and thus to require administration of epinephrine by auto-injector from EMS provider personnel.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

ADHS did not make any substantive changes from the proposed rules to the final rules, but did correct punctuation errors in R9-25-308.

11. A summary of the comments made regarding the rule and the agency response to them:

ADHS held an oral proceeding on May 14, 2007, but received no oral comments. ADHS also received no written comments on the proposed rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

R9-25-305 through R9-25-309 contain incorporations by reference. None of the incorporations by reference are being changed by this rulemaking. This rulemaking merely corrects the URLs provided for them.

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES**

ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION

Section

R9-25-205. On-line Medical Director Qualifications and Responsibilities (A.R.S. §§ 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), and 36-2204.01)

ARTICLE 3. TRAINING PROGRAMS

Section

R9-25-305. Arizona EMT-B Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

R9-25-306. Arizona EMT-B Refresher, Arizona EMT-B Refresher Challenge Examination (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

R9-25-307. Arizona EMT-I Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

Notices of Final Rulemaking

- R9-25-308. Arizona EMT-P Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))
- R9-25-309. Arizona ALS Refresher; Arizona ALS Refresher Challenge Examination (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))
- Exhibit C. Arizona EMT-P Course and Arizona EMT-I(99)-to-EMT-P Transition Course Clinical Training and Field Training Competencies

ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION

R9-25-205. On-line Medical Director Qualifications and Responsibilities (A.R.S. §§ 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), and 36-2204.01)

- A. An individual shall not act as an on-line physician unless the individual:
1. Is a physician; and
 2. Meets one of the following:
 - a. Has emergency medicine certification from a specialty board recognized by the Arizona Medical Board or the Arizona Board of Osteopathic Examiners in Medicine and Surgery;
 - b. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - c. Is practicing emergency medicine and has:
 - i. Proficiency in advanced emergency cardiac life support,
 - ii. Proficiency in advanced trauma life support, and
 - iii. Proficiency in pediatric emergency care.
- B. An individual shall act as an on-line physician only on behalf of:
1. An emergency medical services provider,
 2. An ambulance service,
 3. An ALS base hospital certified under this Article, or
 4. A centralized medical direction communications center.
- C. An on-line physician shall give on-line medical direction to an EMT:
1. As required under A.R.S. Title 36, Chapter 21.1 and 9 A.A.C. 25;
 2. Consistent with the EMT's scope of practice as identified under Article 5 of this Chapter;
 3. Consistent with treatment protocols, triage protocols, and communication protocols approved by the EMT's administrative medical director; and
 4. Consistent with medical recordkeeping, medical reporting, and prehospital incident history report requirements approved by the EMT's administrative medical director.
- D. An on-line physician may allow an individual acting under the supervision of the on-line physician to relay on-line medical direction, if the individual is:
1. A physician;
 2. ~~Licensed under A.R.S. Title 32, Chapter 15 or Chapter 25; or~~ A physician assistant,
 3. A registered nurse practitioner,
 4. A registered nurse,
 5. A practical nurse, or
 - 3-6. ~~An EMT-I or EMT-P.~~

ARTICLE 3. TRAINING PROGRAMS

R9-25-305. Arizona EMT-B Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

- A. "Arizona EMT-B course" means the United States Department of Transportation, National Highway Traffic Safety Administration, Emergency Medical Technician-Basic: National Standard Curriculum (1994):
1. Incorporated by reference and on file with the Department and the Office of the Secretary of State, including no future editions or amendments; and available from the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; from the Department's Bureau of Emergency Medical Services and Trauma System; and on the internet at <http://www.nhtsa.dot.gov/people/injury/ems/nsc.htm> <http://www.nhtsa.gov> by going to the Quick Link for Emergency Medical Services Program;
 2. Modified in subsection (B); and
 3. Provided by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
- B. The Arizona EMT-B course is modified as follows:
1. No more than 24 students shall be enrolled in each session of the course;
 2. The following prerequisites are required:
 - a. Prerequisites identified in the course introductory materials under the heading "Prerequisites"; and
 - b. Prerequisites listed for lessons 1-1, 1-2, 1-3, 1-4, 1-5, 1-6, 1-7, 2-1, 2-2, 2-3, 3-1, 3-2, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 3-9, 3-10, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, 4-10, 4-11, 5-1, 5-2, 5-3, 5-4, 5-5, 5-6, 6-1, 6-2, 6-3, 7-1, 7-2,

Arizona Administrative Register / Secretary of State
Notices of Final Rulemaking

- 7-3, and 7-4;
3. The minimum course length is 110 contact hours;
 4. Modules 1 through 7 are required;
 5. Module 8 is deleted;
 6. EMS equipment listed for lessons 1-2, 1-3, 1-4, 1-5, 1-6, 1-7, 2-1, 2-2, 2-3, 3-1, 3-2, 3-3, 3-4, 3-5, 3-6, 3-8, 3-9, 3-10, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, 4-10, 4-11, 5-1, 5-2, 5-3, 5-4, 5-5, 5-6, 6-1, 6-2, 6-3, 7-1, 7-2, 7-3, and 7-4 is required and shall be available before the start of each course session and during the course session as needed to meet the needs of each student enrolled in the course session;
 7. Facility recommendations identified in the course introductory materials under the headings "Environment" and "Facilities" are requirements;
 8. In addition to modules 1 through 7, the course shall also contain additional instruction and skills training in:
 - a. Blood glucose monitoring that provides information and hands-on training on the equipment and procedures necessary to evaluate blood sugar levels; ~~and;~~
 - b. Intravenous monitoring that provides information and hands-on training on transporting a patient with an established intravenous or patient controlled analgesic pump; ~~and~~
 - c. Administration of epinephrine by auto-injector, including:
 - i. The epidemiology and physiology of anaphylaxis and allergic reaction;
 - ii. Common methods of entry of substances into the body;
 - iii. Common antigens most frequently associated with anaphylaxis;
 - iv. Physical examination of patients with complaints associated with anaphylaxis or allergic reaction;
 - v. Signs and symptoms of anaphylaxis, allergic reaction, and respiratory distress associated with anaphylaxis;
 - vi. Differentiating between anaphylaxis and other medical conditions that may mimic anaphylaxis;
 - vii. The following information about epinephrine by auto-injector:
 - (1) Class,
 - (2) Mechanism of action,
 - (3) Indications and field use,
 - (4) Contraindications,
 - (5) Adverse reactions,
 - (6) Incompatibilities and drug reactions,
 - (7) Adult and pediatric dosages,
 - (8) Route and method of administration,
 - (9) Onset of action,
 - (10) Peak effects,
 - (11) Duration of action,
 - (12) Dosage forms and packaging,
 - (13) Minimum supply requirements under R9-25-503,
 - (14) Special considerations, and
 - (15) Proper storage conditions; and
 - viii. A practical skills demonstration of competency in administering epinephrine by auto-injector;
 9. A final closed book written course examination is required and shall:
 - a. Include 150 multiple-choice questions with one absolutely correct answer, one incorrect answer, and two distractors, neither of which is "all of the above" or "none of the above";
 - b. Cover the learning objectives of the course with representation from each of the course modules; and
 - c. Require a passing score of 75% or better in no more than three attempts; and
 10. A final comprehensive practical skills examination is required and shall:
 - a. Evaluate a student's technical proficiency in skills identified in Appendix H; and
 - b. Enable a student to meet NREMT-Basic registration requirements.
- C. A training program certified under this Article or an ALS base hospital providing a course as authorized under R9-25-210(C) may combine the students from more than one Arizona EMT-B course session for didactic instruction.

R9-25-306. Arizona EMT-B Refresher, Arizona EMT-B Refresher Challenge Examination (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

- A. "Arizona EMT-B refresher" means the United States Department of Transportation, National Highway Traffic Safety Administration, Emergency Medical Technician: Basic Refresher Curriculum Instructor Course Guide, (1996);
1. Incorporated by reference and on file with the Department, including no future editions or amendments; and available from the National Highway Traffic Safety Administration, 400 Seventh ~~Street St.~~, SW, Washington, DC 20590; from the Department's Bureau of Emergency Medical Services and Trauma System; and on the internet at ~~http://www.nhtsa.dot.gov/people/injury/ems/nse.htm~~ http://www.nhtsa.gov by going to the Quick Link for Emergency Medical Services Program;
 2. As modified in subsection (B); and

Notices of Final Rulemaking

3. Provided by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
 - B. The Arizona EMT-B refresher is modified as follows:
 1. No more than 32 students shall be enrolled in each session of the course;
 2. The minimum admission requirements are:
 - a. One of the following:
 - i. Current EMT-B or higher level certification in this state or certification, recertification, or licensure at the basic emergency medical technician level or higher level in any other state or jurisdiction;
 - ii. Current NREMT-Basic or higher level registration; or
 - iii. Being required by NREMT to complete the Arizona EMT-B refresher to become eligible to seek NREMT-Basic registration; and
 - b. Proficiency in cardiopulmonary resuscitation;
 3. The minimum course length is 24 contact hours;
 4. Modules 1 through 6 are required;
 5. EMS equipment listed for Modules II, III, IV, V, and VI is required and shall be available before the start of each course session and during the course session as needed to meet the needs of each student enrolled in the course session;
 6. Facility recommendations identified for the Arizona EMT-B course are requirements;
 7. The course shall include instruction on administration of epinephrine by auto-injector that meets the requirements described in R9-25-305(B)(8)(c);
 - 7.8. For a student who has not completed the Arizona EMT-B course, the course shall contain additional instruction and skills training in:
 - a. Blood glucose monitoring that provides information and hands-on training on the equipment and procedures necessary to evaluate blood sugar levels, and
 - b. Intravenous monitoring that provides information and hands-on training on transporting a patient with an established intravenous or patient controlled analgesic pump;
 - 8.9. A final closed book written course examination is required and shall:
 - a. Include 150 multiple-choice questions with one absolutely correct answer, one incorrect answer, and two distractors, neither of which is "all of the above" or "none of the above";
 - b. Cover the learning objectives of the course with representation from each of the course modules; and
 - c. Require a passing score of 75% or better in no more than three attempts; and
 - 9.10. A final comprehensive practical skills examination is required and shall:
 - a. Evaluate a student's technical proficiency in skills identified as psychomotor objectives in modules 1 through 6; and
 - b. Enable a student to meet NREMT-Basic registration or reregistration requirements.
 - C. "Arizona EMT-B refresher challenge examination" means competency testing prescribed in the Arizona EMT-B refresher that is administered by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
 - D. The Arizona EMT-B refresher challenge examination shall consist of:
 1. The EMT-B refresher final written course examination, required in subsection (B)(89); and
 2. The EMT-B refresher final comprehensive practical skills examination, required in subsection (B)(910).
 - E. A training program certified under this Article or an ALS base hospital providing a course as authorized under R9-25-210(C) may combine the students from more than one Arizona EMT-B refresher session for didactic instruction.
- R9-25-307. Arizona EMT-I Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))**
- A. "Arizona EMT-I course" means the United States Department of Transportation, National Highway Traffic Safety Administration, EMT-Intermediate: National Standard Curriculum (1999);
 1. Incorporated by reference and on file with the Department, including no future editions or amendments; and available from the National Highway Traffic Safety Administration, 400 Seventh ~~Street St.~~, SW, Washington, DC 20590; from the Department's Bureau of Emergency Medical Services and Trauma System; and ~~on the internet at http://www.nhtsa.dot.gov/people/injury/ems/nse.htm~~ http://www.nhtsa.gov by going to the Quick Link for Emergency Medical Services Program;
 2. As modified in subsection (B); and
 3. Provided by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
 - B. The Arizona EMT-I course is modified as follows:
 1. No more than 24 students shall be enrolled in each session of the course;
 2. Prerequisites identified in the course introductory materials under the headings "The EMT-Intermediate: National Standard Curriculum" and "Prerequisites" are required;
 3. The minimum course length is 400 contact hours, including:

Notices of Final Rulemaking

- a. A minimum of 280 contact hours of didactic instruction and practical laboratory, and
- b. A minimum of 120 contact hours of clinical training and field training;
4. Modules 1 through 7 are required;
5. EMS equipment required for the course is listed in Exhibit A of this Article and shall be available before the start of each course session and during the course session as needed to meet the needs of each student enrolled in the course session;
6. Facility recommendations identified in the course introductory materials under the headings “EMT-Intermediate Education,” “Program Evaluation,” and “Facilities” are requirements;
7. A final closed book written course examination is required and shall:
 - a. Include 150 multiple-choice questions with one absolutely correct answer, one incorrect answer, and two distractors, neither of which is “all of the above” or “none of the above”;
 - b. Cover the learning objectives of the course with representation from each of the course modules; and
 - c. Require a passing score of 75% or better in no more than three attempts; and
8. A final comprehensive practical skills examination is required and shall:
 - a. Evaluate a student’s technical proficiency in skills identified as psychomotor objectives in modules 1 through 7; and
 - b. Enable a student to meet NREMT-Intermediate registration requirements.
- C. A training program certified under this Article or an ALS base hospital providing a course as authorized under R9-25-210(C) may combine the students from more than one Arizona EMT-I course session for didactic instruction.

R9-25-308. Arizona EMT-P Course (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

- A. “Arizona EMT-P course” means the United States Department of Transportation, National Highway Traffic Safety Administration, EMT-Paramedic: National Standard Curriculum (1998);
 1. Incorporated by reference and on file with the Department, including no future editions or amendments; and available from the National Highway Traffic Safety Administration, 400 Seventh Street St., SW, Washington, DC 20590; from the Department’s Bureau of Emergency Medical Services and Trauma System; and on the internet at ~~http://www.nhtsa.dot.gov/people/injury/ems/nsc.htm~~ http://www.nhtsa.gov by going to the Quick Link for Emergency Medical Services Program;
 2. As modified in subsection (B); and
 3. Provided by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
- B. The Arizona EMT-P course is modified as follows:
 1. No more than 24 students shall be enrolled in each session of the course;
 2. The following course prerequisites are required:
 - a. Prerequisites identified in the course introductory materials under the heading “The EMT-Paramedic: National Standard Curriculum, Prerequisites”; and
 - b. Completion of a minimum of 24 clock hours of hazardous materials training that meets the requirements of the National Fire Protection Association’s; NFPA 472: Standard for Professional Competence of Responders to Hazardous Materials Incidents, 2002 Edition; Competencies for First Responders at the Operational Level; incorporated by reference and on file with the Department, including no future editions or amendments; and available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-747 and from the Department’s Bureau of Emergency Medical Services and Trauma System;
 3. The minimum course length is 1000 contact hours, including:
 - a. A minimum of 500 contact hours of didactic instruction and practical laboratory, and
 - b. A minimum of 500 contact hours of clinical training and field training;
 4. Modules 1 through 8 are required;
 5. Equipment required for the course is listed in Exhibit A and shall be available before the start of each course session and during the course session as needed to meet the needs of each student enrolled in the course session;
 6. Facility recommendations on page 32 of the introductory material are requirements;
 7. Each student shall complete the competencies in Exhibit C during clinical training and field training;
 - ~~7-8.~~ A final closed book written course examination is required and shall:
 - a. Include 150 multiple-choice questions with one absolutely correct answer, one incorrect answer, and two distractors, neither of which is “all of the above” or “none of the above”;
 - b. Cover the learning objectives of the course with representation from each of the course modules; and
 - c. Require a passing score of 75% or better in no more than three attempts; and
 - ~~8-9.~~ A final comprehensive practical skills examination is required and shall:
 - a. Evaluate a student’s technical proficiency in skills identified as psychomotor objectives in modules 1 through 8; and
 - b. Enable a student to meet NREMT-Paramedic registration requirements.
- C. A training program certified under this Article or an ALS base hospital providing a course as authorized under R9-25-

Notices of Final Rulemaking

210(C) may combine the students from more than one Arizona EMT-P course session for didactic instruction.

R9-25-309. Arizona ALS Refresher; Arizona ALS Refresher Challenge Examination (Authorized by A.R.S. §§ 36-2202(A)(3) and (A)(4) and 36-2204(1) and (3))

- A. “Arizona ALS refresher” means the U.S. Department of Transportation, National Highway Traffic Safety Administration, EMT-Paramedic: NSC Refresher Curriculum (2001):
1. Incorporated by reference and on file with the Department, including no future editions or amendments; and available from the National Highway Traffic Safety Administration, 400 Seventh ~~Street St.~~, SW, Washington, DC 20590; from the Department’s Bureau of Emergency Medical Services and Trauma System; and on ~~the internet at http://www.nhtsa.dot.gov/people/injury/ems/nsc.htm~~ http://www.nhtsa.gov by going to the Quick Link for Emergency Medical Services Program;
 2. As modified in subsection (B); and
 3. Provided by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
- B. The Arizona ALS refresher is modified as follows:
1. No more than 32 students shall be enrolled in each session of the course;
 2. The minimum admission requirements are:
 - a. One of the following:
 - i. Current certification as an EMT-I(99) or EMT-P in this state or certification, recertification, or licensure at the intermediate emergency medical technician level or paramedic level in any other state or jurisdiction;
 - ii. Current NREMT-Intermediate or NREMT-Paramedic registration; or
 - iii. Being required by NREMT to complete the Arizona ALS refresher to become eligible to seek NREMT-Intermediate or NREMT-Paramedic registration; and
 - b. Proficiency in cardiopulmonary resuscitation and proficiency in advanced emergency cardiac life support;
 3. The minimum course length is 48 contact hours;
 4. Modules 1 through 6 are required;
 5. For a student at the intermediate emergency medical technician level, lessons, tasks, and objectives shall not exceed the intermediate emergency medical technician skill level;
 6. Equipment required for the course is listed in Exhibit A and shall be available before the start of each course session and during the course session as needed to meet the needs of each student enrolled in the course session;
 7. Facility recommendations identified for the Arizona EMT-P course are requirements;
 8. A final closed book written course examination is required and shall:
 - a. Include 150 multiple-choice questions with one absolutely correct answer, one incorrect answer, and two distractors, neither of which is “all of the above” or “none of the above”;
 - b. Cover the learning objectives of the course with representation from each of the course modules; and
 - c. Require a passing score of 75% or better in no more than three attempts; and
 9. A final comprehensive practical skills examination is required and shall:
 - a. Evaluate a student’s technical proficiency in skills identified as psychomotor objectives in modules 1, 2, 4, 5, and 6; and
 - b. Enable a student to meet NREMT-Intermediate or NREMT-Paramedic registration or reregistration requirements.
- C. “Arizona ALS refresher challenge examination” means competency testing prescribed in the Arizona ALS refresher that is administered by a training program certified under this Article or by an ALS base hospital authorized under R9-25-210(C).
- D. The Arizona ALS refresher challenge examination shall consist of:
1. The ALS refresher final written course examination, required in subsection (B)(8); and
 2. The ALS refresher final comprehensive practical skills examination, required in subsection (B)(9).
- E. A training program certified under this Article or an ALS base hospital providing a course as authorized under R9-25-210(C) may combine the students from more than one Arizona ALS refresher session for didactic instruction.

Exhibit C. Arizona EMT-P Course and Arizona EMT-I(99)-to-EMT-P Transition Course Clinical Training and Field Training Competencies

A. PSYCHOMOTOR SKILLS

1. **The student shall demonstrate the ability to safely administer agents:** The student shall safely, and while performing all steps of each procedure, properly administer agents at least 10 times to live patients.
2. **The student shall demonstrate the ability to safely perform endotracheal intubation:** The student shall safely, and while performing all steps of each procedure, successfully intubate at least one live patient or cadaver.
3. **The student shall demonstrate the ability to safely gain venous access in all age group patients:** The student shall safely, and while performing all steps of each procedure, successfully access the venous circulation at least 17 times on live patients of various age groups.

Notices of Final Rulemaking

4. **The student shall demonstrate the ability to effectively ventilate unintubated patients of all age groups:** The student shall effectively, and while performing all steps of each procedure, ventilate at least 12 unintubated live patients.

B. AGES

1. **The student shall demonstrate the ability to perform a comprehensive assessment on pediatric patients:** The student shall perform a comprehensive patient assessment on at least 20 pediatric patients, including newborns, infants, toddlers, and school-age.
2. **The student shall demonstrate the ability to perform a comprehensive assessment on adult patients:** The student shall perform a comprehensive patient assessment on at least 20 adult patients of various age groups, including young, middle, and older patients.

C. PATHOLOGIES

1. **The student shall demonstrate the ability to perform a comprehensive assessment on obstetric patients:** The student shall perform a comprehensive patient assessment on at least 5 obstetric patients.
2. **The student shall demonstrate the ability to perform a comprehensive assessment on trauma patients:** The student shall perform a comprehensive patient assessment on at least 20 trauma patients.
3. **The student shall demonstrate the ability to perform a comprehensive assessment on behavioral patients:** The student shall perform a comprehensive patient assessment on at least 10 behavioral patients.

D. CHIEF COMPLAINTS

1. **The student shall demonstrate the ability to perform a comprehensive assessment on and formulate and implement a treatment plan for patients with chest pain:** The student shall perform a comprehensive patient assessment on and formulate and implement a treatment plan for at least 20 patients with chest pain.
2. The student shall demonstrate the ability to perform a comprehensive assessment on and formulate and implement a treatment plan for patients with dyspnea/respiratory distress:
 - a. The student shall perform a comprehensive patient assessment on and formulate and implement a treatment plan for at least 15 adult patients with dyspnea or respiratory distress; and
 - b. The student shall perform a comprehensive patient assessment on and formulate and implement a treatment plan for at least 5 pediatric patients, including infants, toddlers, and school-age, with dyspnea or respiratory distress.
3. **The student shall demonstrate the ability to perform a comprehensive assessment on and formulate and implement a treatment plan for patients with abdominal complaints:** The student shall perform a comprehensive patient assessment on and formulate and implement a treatment plan for at least 15 patients with abdominal complaints such as abdominal pain, nausea or vomiting, gastrointestinal bleeding, and gynecological complaints.
4. **The student shall demonstrate the ability to perform a comprehensive assessment on and formulate and implement a treatment plan for patients with altered mental status:** The student shall perform a comprehensive patient assessment on and formulate and implement a treatment plan for at least 15 patients with altered mental status.

E. TEAM LEADER SKILLS

The student shall demonstrate the ability to serve as a team leader in a variety of prehospital emergency situations: The student shall serve as the team leader for at least 25 prehospital emergency responses.

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

[R07-292]

PREAMBLE

1. Sections Affected

R12-15-151
R12-15-207
R12-15-224
R12-15-805
R12-15-810
R12-15-816
R12-15-822
R12-15-121

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend

2. **The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Notices of Final Rulemaking

Authorizing statute: A.R.S. § 45-105(B)(1)

Implementing statutes: A.R.S. §§ 45-594(A), 45-596(I), 45-599(J) and 45-1202(C)

3. The effective date of the rules:

October 6, 2007

4. A list of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 12 A.A.R. 2517, July 14, 2006

Notice of Proposed Rulemaking: 13 A.A.R.1454, April 27, 2007

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Rebecca Szafranski, Deputy Counsel, Legal Division

Address: Department of Water Resources
3550 N. Central Ave.
Phoenix, AZ 85012

Telephone: (602) 771-8472

Fax: (602) 771-8683

E-mail: rlszafranski@azwater.gov

6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

The Department of Water Resources ("Department") is making technical amendments to several of its rules to correct errors and conform rule language to statutory and other changes made after the rules became effective. Most of the amendments were identified in the Department's most recent five-year-review report to the Governor's Regulatory Review Council. The following is an explanation of each amendment:

Article 1. Fees

R12-15-151. Fee Schedule

R12-15-151(B)(4)(a) provides that the fee for a notice of intent to drill a well is \$10. R12-15-151(B)(4)(b) provides that the fee for an application for a permit to drill a new or replacement well is \$50. These fees were superseded by legislation enacted in 2003. That legislation established a fee of \$150 for filing a notice of intent to drill (\$100 if the proposed well is a small domestic well outside of an active management area and irrigation non-expansion area). A.R.S. § 45-596(I). The legislation established a fee of \$150 for filing an application to drill a new well or a replacement well in a new location. A.R.S. § 45-599(J). Because the fees are now set by statute, the Department is deleting R12-15-151(B)(4)(a) and (b).

Article 2. Procedural Rules

a. R12-15-207. Correction of Clerical Mistakes

R12-15-207 authorizes the Director or hearing officer to correct clerical mistakes in decisions, orders, rulings, process issued by the Department or other parts of the record, and any errors in the record arising from oversight or omission. The reference to a hearing officer is outdated because the Department is no longer allowed to use a hearing officer to conduct administrative hearings. Instead, unless the Director conducts the administrative hearing directly, the Department is required to use the services of the Office of Administrative Hearings, which assigns an administrative law judge to hear contested cases. *See* A.R.S. §§ 41-1092.01(E) and (F). The Department is amending R12-15-207 to delete all references to a hearing officer.

b. R12-15-224. Ex Parte Communications

R12-15-224 prohibits ex parte communications between a party to a contested case and the Director, a hearing officer, or other Department employee or consultant who is or may reasonably be expected to be involved in the decision-making process of the contested case. The reference to a hearing officer is outdated because the Department is no longer allowed to use a hearing officer to conduct administrative hearings. Instead, unless the Director conducts the administrative hearing directly, the Department is required to use the services of the Office of Administrative Hearings, which assigns an administrative law judge to hear contested cases. *See* A.R.S. §§ 41-1092.01(E) and (F). The Department is amending R12-15-224 to delete all references to a hearing officer. Non-substantive changes are also being made to improve grammar and correct a typographical error.

Article 8. Well Construction and Licensing of Well Drillers

a. R12-15-805. Examination for well drilling license

R12-15-805(E) contains a reference to the National Water Well Association. After the rule was adopted, the name of the organization was changed to the National Ground Water Association. The Department is amending R12-15-805(E) to delete "National Water Well Association" and replace it with "National Ground Water Association."

Notices of Final Rulemaking

b. R12-15-810. Authorization to drill

R12-15-810(A) provides that “upon mailing a duplicate copy of the notice of intent to drill as provided in A.R.S. § 45-596(D),” the director shall mail a drilling card to the designated well drilling contractor or single well licensee. This language is outdated because A.R.S. § 45-596(D) no longer provides that upon approval of a notice of intent to drill, the director shall mail a duplicate copy of the notice to the person submitting the notice. In 2002, the statute was amended to provide that upon approval of a notice of intent to drill, the director shall mail a drilling card to the well driller identified in the notice and shall mail notice of the issuance of the drilling card to the person filing the notice. The Department is deleting R12-15-810(A) because it is outdated and because the process for mailing a drilling card to the well driller is now covered in statute.

c. R12-15-816. Abandonment

R12-15-816(H) requires the installation of a surface seal in a well being abandoned if the well does not penetrate an aquifer. R12-15-816(H)(1) sets forth the specifications for the surface seal “[i]f the casing is removed from the top 20 feet of the well” R12-15-816(H)(2) sets forth the specifications for the surface seal “[i]f the casing is not removed from the top ten feet of the well” The reference to the top ten feet of the well in R12-15-816(H)(2) is incorrect. The rule should instead refer to the top 20 feet of the well. The Department is correcting this error by amending R12-15-816(H)(2) to change “ten” to “20.” Non-substantive grammatical changes are also being made.

d. R12-15-822. Capping of open wells

R12-15-822 contains three subsections. Due to a typographical error, the third subsection is labeled as subsection D. The Department is correcting this error by changing the label of the third subsection to C.

Article 12. Dam Safety Procedures

R12-15-1210. Application to Construct, Reconstruct, Repair, Enlarge, Alter, Breach, or Remove a Low Hazard Potential Dam

The Department’s rules governing dam safety procedures classify dams according to their hazard potential: high, significant, low and very low. R12-15-1206(B). The rules provide that applications to construct high, significant and very low potential hazard dams must include, among other things, proof of a right to impound and appropriate surface water, although the language requiring the proof differs slightly. *See* R12-15-1208(A)(9) and R12-15-1211(A)(1)(e). However, the rule governing applications to construct low potential hazard dams does not include such a requirement. *See* R12-15-1210(A). Consequently, as currently written, R12-15-1210(A) allows construction of a low hazard dam without a demonstration that the applicant has a permit to impound and beneficially use the surface water that will be impounded by the dam.

The Department believes that the absence of the requirement to include proof of a right to impound and appropriate surface water in R12-15-1210(A) is due to a simple oversight when the rule was drafted. The Department is amending the rule to add such a requirement.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

An Identification of the Proposed Rulemaking

Technical amendments are being made to rules within Articles 1, 2, 8, and 12 under Title 12, Chapter 15.

The technical rule changes conform older rules to newer statutes, alter outdated rules already superseded in statute, correct organizational names mentioned in rule but which now have changed, and provide for greater clarity, consistency, and specificity while reducing confusion among the regulated public.

To correct an earlier oversight, changes are being made to R12-15-1210. The changes will require persons applying to construct or register low hazard potential dams to show proof of a right to appropriate and store surface water.

A Brief Summary of the Information Included in the Economic, Consumer, and Small Business Impact Statement

The change to R12-15-1210 affects anyone statewide applying for a permit to construct a new low hazard potential dam or to register and operate a previously unregistered low hazard potential dam that impounds appropriable water. Recent examples include ranchers, and those who construct or operate power, water purification, or waste water treatment plants.

Notices of Final Rulemaking

Cost – Benefit Analysis

Probable Benefits and Costs to Agencies

The Department will better serve the people of Arizona. The Department expects no cost impacts from the technical changes, and expects that it and the public will benefit through greater clarity, consistency, and specificity and reduced confusion.

Probable Benefits and Costs to Political Subdivisions

Beyond greater clarity and reduced confusion, the Department expects neither benefits nor costs to political subdivisions from the changes to Articles 1, 2, and 8.

Probable Benefits and Costs to Business, Including Small Business

Beyond greater clarity and reduced confusion, the Department expects neither benefits nor costs to business, including small business, from the changes to Articles 1, 2, and 8.

The probable costs and benefits to private persons and consumers who are directly affected by the proposed rulemaking

Beyond greater clarity and reduced confusion, the Department expects neither benefits nor costs to private persons and consumers from the changes to Articles 1, 2, and 8.

Employment

No employment impact is expected from these technical amendments.

State Revenues

No impact on state revenues is expected from these technical amendments.

Alternative Methods of Achieving the Proposed Rulemaking

The Department expects no cost impacts from the technical changes. It expects the rule modifications to benefit the public through greater clarity, consistency, and specificity and reduced confusion.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor grammatical, formatting, and clarifying changes were made at the request of Governor's Regulatory Review Council staff.

11. A summary of the comments made regarding the rules and the agency response to them:

No verbal or written comments were received by the Department.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

ARTICLE 1. FEES

Section

R12-15-151. Fee Schedule

ARTICLE 2. PROCEDURAL RULES

Section

R12-15-207. Correction of Clerical Mistakes

R12-15-224. Ex Parte Communications

ARTICLE 8. WELL CONSTRUCTION AND LICENSING OF WELL DRILLERS

Notices of Final Rulemaking

Section

- R12-15-805. Examination for ~~well drilling license~~ Well Drilling License
R12-15-810. Authorization to ~~drill~~ Drill
R12-15-816. Abandonment
R12-15-822. Capping of ~~open wells~~ Open Wells

ARTICLE 12. DAM SAFETY PROCEDURES

Section

- R12-15-1210. Application to Construct, Reconstruct, Repair, Enlarge, Alter, Breach, or Remove a Low Hazard Potential Dam

ARTICLE 1. FEES

R12-15-151. Fee Schedule

A. No change

B. The following fees shall be paid:

1. No change
 - a. No change
 - i. No change
 - ii. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
4. WELLS
 - a- ~~Notice of intent to drill and issue drilling card~~ 10.00
 - b- ~~Application for permit to drill new or replacement well and issue drilling card~~ 50.00
 - ~~e-a~~ No change
 - ~~d-b~~ No change
 - ~~e-c~~ No change
 - ~~f-d~~ No change
 - ~~g-e~~ No change
 - ~~h-f~~ No change
 - ~~i-g~~ No change
 - ~~j-h~~ No change
 - ~~k-i~~ No change
 - ~~l-j~~ No change

Notices of Final Rulemaking

- ~~m-k.~~ No change
- 5. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
- 6. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 7. No change
- 8. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - i. No change
 - j. No change
 - i. No change
 - ii. No change
 - k. No change
 - i. No change
 - ii. No change
- 9. No change
 - a. No change
 - b. No change
- 10. No change
 - a. No change
 - i. No change
 - ii. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - d. No change
- 11. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - c. No change
 - i. No change
 - ii. No change
- 12. No change
 - a. No change
 - b. No change
- 13. No change
 - a. No change
 - b. No change

Notices of Final Rulemaking

- c. No change
 - i. No change
 - ii. No change
- d. No change
- C. No change

ARTICLE 2. PROCEDURAL RULES

R12-15-207. Correction of Clerical Mistakes

Upon a motion or on the initiative of the Director ~~or the hearing officer~~, the Director ~~or the hearing officer~~ may correct clerical mistakes in decisions, orders, rulings, any process issued by the Department, or other parts of the record, and errors in the record arising from oversight or omission. The Director ~~or the hearing officer~~ shall give all parties and the Chief Counsel notice of any corrections made pursuant to this ~~rule~~ Section.

R12-15-224. Ex Parte Communications

- A. During the course of a contested ~~matter~~ case or appealable agency action, a party shall not make an ex parte communication or knowingly cause an ex parte communication to be made to the Director, ~~a hearing officer~~, or other Department employee or consultant who is or may reasonably be expected to be involved in the decision-making process of the contested ~~matter~~ case or appealable agency action.
- B. During the course of a contested ~~matter~~ case or appealable agency action, the Department personnel listed in subsection (A) shall not make an ex parte communication or knowingly cause an ex parte communication to be made to a party or a person who will be materially and directly affected by the outcome of the contested ~~matter~~ case or appealable agency action.
- C. Any of the Department personnel listed in subsection (A) of this ~~rule~~ Section who receives a written communication prohibited by this ~~rule~~ Section shall file a copy of the communication in the public docket and serve a copy on the Director ~~or the hearing officer~~, the Chief Counsel, and all parties to the contested ~~matter~~ case or appealable agency action. Any of the Department personnel listed in subsection (A) of this ~~rule~~ Section who receives an oral communication prohibited by this ~~rule~~ Section shall file a summary, stating the substance of the communication, in the public docket and serve a copy on the Director ~~or the hearing officer~~, the Chief Counsel, and all parties to the contested ~~matter~~ case or appealable agency action.
- D. Upon receipt of an ex parte communication or a copy or summary of an ex parte communication made or knowingly caused to be made by a party in violation of this ~~rule~~ Section, the Director ~~or the hearing officer~~, to the extent consistent with the interests of justice and the policy of the underlying states statutes and rules, may require the party to show cause why ~~his~~ the party's claim or interest in the contested ~~matter~~ case or appealable agency action should not be dismissed, denied or disregarded ~~on account because~~ because of such the violation.
- E. For purposes of this ~~rule~~ Section, "ex parte communication" means any written or oral communication relating to the merits of a contested ~~matter~~ case or appealable agency action, except:
 - 1. Communications made in the course of official proceedings in the contested ~~matter~~ case or appealable agency action;
 - 2. Communications made in writing, if a copy of the communication is promptly served on the Director ~~or the hearing officer~~, the Chief Counsel, and all parties to the contested ~~matter~~ case or appealable agency action;
 - 3. Oral communications made after adequate notice, stating the substance of each communication, to all parties and the Chief Counsel;
 - 4. Communications relating solely to procedural matters; and
 - 5. As otherwise authorized by law.

ARTICLE 8. WELL CONSTRUCTION AND LICENSING OF WELL DRILLERS

R12-15-805. Examination for ~~well-drilling license~~ Well Drilling License

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
- B. No change
- C. No change
- D. No change
- E. The Director may exempt a qualifying party from taking the section on general knowledge, and one or more of the specialized sections, if the qualifying party provides proof of passing an equivalent examination given by the ~~National Water Well Association~~ National Ground Water Association.

Notices of Final Rulemaking

R12-15-810. Authorization to ~~drill~~ Drill

~~A.~~ The director shall, upon mailing a duplicate copy of the notice of intention to drill as provided in A.R.S. § 45-596(D), mail a drilling card to the designated well drilling contractor or single well licensee.

~~B.~~A. No change

~~C.~~B. No change

R12-15-816. Abandonment

A. No change

B. No change

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

8. No change

9. No change

10. No change

C. No change

D. No change

E. No change

F. No change

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

8. No change

9. No change

G. No change

H. ~~A well drilling contractor or single well licensee shall construct A well not penetrating an aquifer shall include a surface seal for a well that does not penetrate an aquifer, which shall be accomplished as follows:~~

1. If the casing is removed from the top 20 feet of the well, a cement grout plug shall be set extending from two feet below the land surface to a minimum of ~~twenty~~ 20 feet below the land surface, and the well shall be backfilled above the top of the cement grout plug to the original land surface.

2. If the casing is not removed from the top ~~ten~~ 20 feet of the well, a cement grout plug shall be set extending from the top of the casing to a minimum of ~~twenty~~ 20 feet below the land surface and the annular space outside the casing shall be filled with cement from the land surface to a minimum of ~~twenty~~ 20 feet below the land surface.

I. No change

1. No change

2. No change

J. No change

K. No change

R12-15-822. Capping of ~~open wells~~ Open Wells

A. No change

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

B. No change

~~D.~~C. No change

ARTICLE 12. DAM SAFETY PROCEDURES

R12-15-1210. Application to Construct, Reconstruct, Repair, Enlarge, Alter, Breach, or Remove a Low Hazard Potential Dam

- A.** An application package to construct, reconstruct, repair, enlarge, or alter a low hazard potential dam shall include the following prepared by or under the supervision of an engineer as defined in R12-15-1202(11):
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 - a. No change
 - b. No change
 - c. No change
 6. No change
 7. No change
 8. No change
 9. A description of the use for the impounded or diverted water, proof of a right to appropriate, and a permit to store water as prescribed in A.R.S. §§ 45-152 and 45-161.
 - ~~9-10.~~ No change
 - ~~10-11.~~ No change
- B.** No change
1. No change
 - a. No change
 - b. No change
 - c. No change
 2. No change
 3. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - c. No change
 4. No change
- C.** No change
- D.** No change
1. No change
 2. No change
- E.** No change
- F.** No change
- G.** No change
1. No change
 2. No change
 3. No change
 - a. No change
 - b. No change
 - c. No change
 4. No change
- H.** No change
1. No change
 2. No change
 3. No change
 4. No change
- I.** No change
1. No change
 2. No change
 3. No change
 4. No change
- J.** No change

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 1. DEPARTMENT OF COMMERCE

[R07-290]

PREAMBLE

1. Sections Affected

Article 7
R20-1-701
R20-1-702
R20-1-703
R20-1-704
R20-1-705
R20-1-706
R20-1-707
R20-1-708
R20-1-709
R20-1-710
R20-1-711
R20-1-712

Rulemaking Action

New Article
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-1504(B)(4)

Implementing statute: A.R.S. § 41-1505.02

3. The effective date for the rules:

October 6, 2007

4. List of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 12 A.A.R. 3384, September 15, 2006

Notice of Proposed Rulemaking: 13 A.A.R. 1367, April 20, 2007

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Lisa Henderson, Program Manager
Address: Department of Commerce
1700 W. Washington St., Suite 420
Phoenix AZ 85007
Telephone: (602) 771-1134
Fax: (602) 771-1210
E-mail: Lisah@azcommerce.com

6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

The rules establish procedures for the Main Street program, which was created in 1986 under A.R.S. § 41-1505.02 to "provide for the revitalization of central business districts in rural communities of this state." The rules also indicate the responsibilities of the Department of Commerce (Department) to communities accredited under the Main Street program.

Arizona's Main Street program is associated with the National Trust for Historic Preservation's National Main Street Center. In the 1970s, the National Trust developed the Main Street approach to commercial district revitalization, an innovative methodology that combines historic preservation with economic development to restore prosperity and vitality to downtowns and neighborhood business districts. The Main Street approach is a comprehensive strategy tailored to meet local needs and opportunities. It encompasses work in four areas—design, economic restructuring, promotion, and organization—that combine to address the needs of a commercial district. The Main Street program is an effective tool for community-based, grassroots revitalization.

The Main Street program in Arizona has operated successfully since its inception. The Department believes, however, that developing these rules will enable it to improve program procedures. The rules streamline the application procedure and clarify requirements for eligibility and remaining in good standing. One of the responsibilities of the Department is to provide an annual "workshop" for organizations (communities and nonprofits in partnership)

Notices of Final Rulemaking

regarding the Main Street program and how to make a successful application. The Department provides continuing technical assistance and training and eligibility for grants for improvement and enhancement projects to communities that are accredited.

Program staff and funding resources are limited so the number of new communities that can be accredited annually is also limited. This is particularly true because each newly accredited community receives a full onsite evaluation that can cost as much as \$20,000. The community evaluation involves a team of economic development professionals spending time in a community evaluating its commercial district and developing written recommendations on how the community can improve over both the short and long term.

Before announcing an application period, the Department determines how many new accreditations may be issued. Applications are scored against the criteria established in the rules. Applicants with the highest scores receive accreditation, up to the annual number of new accredited communities the Department can support.

Careful consideration was given to the impact of the rules on currently accredited communities. For example, in the past, if a community ceased to participate in program activities, it remained eligible to use the Department's resources and apply for project grants. This will no longer be the case under the rules. This will allow the Department to use its limited resources where they will do the most good, for communities actively working toward planned improvement and development under the program. R20-1-702 addresses transitional requirements. It allows a previously accredited community to continue Main Street participation without having to receive new accreditation if the community indicates that it intends to participate actively in the program.

7. **A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

8. **A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

9. **The summary of the economic, small business, and consumer impact:**

The Main Street program is administered by the Department with a staff of one and \$130,000 allocated annually by the Commerce and Economic Development Commission, which is established by A.R.S. § 41-1505.05. The Commission is funded by receipt of 21.5% of the monies generated by two designated Scratchers tickets issued by the Arizona Lottery (See A.R.S. § 41-1505.10). The program receives general fund monies for administrative support.

The economic cost resulting from the rules will be minimal and will be voluntarily assumed by a community that seeks accreditation under the Main Street program. The costs result from the application process and the requirements for remaining in good standing. A community voluntarily assumes these costs because the economic benefits from participation in the Main Street program can be substantial.

Although it is a community and its nonprofit partner that will bear the costs resulting from these rules, it is business in or around the Main Street program area and the political subdivision and citizens of the program area that will economically benefit as the program area is revitalized and its historic character preserved.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

A definition of "Main Street program" was added to clarify the benefits available to a community from accreditation. Minor changes were made to the definition of "accreditation." All other changes between the proposed and final rules were minor and non-substantive.

11. **A summary of the comments made regarding the rules and the agency response to them:**

An oral proceeding was held on May 31, 2007. No one attended. The Department received no written comments regarding the rules.

12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

13. **Incorporations by reference and their location in the rule:**

None

14. **Were these rules previously made as emergency rules?**

No

15. **The full text of the rules follows:**

Notices of Final Rulemaking

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 1. DEPARTMENT OF COMMERCE

ARTICLE 7. ARIZONA MAIN STREET PROGRAM

Section

<u>R20-1-701.</u>	<u>Definitions</u>
<u>R20-1-702.</u>	<u>Communities Accredited before the Effective Date of this Article</u>
<u>R20-1-703.</u>	<u>Accreditation Prerequisites</u>
<u>R20-1-704.</u>	<u>Annual Application Period</u>
<u>R20-1-705.</u>	<u>Application for Main Street Program Accreditation</u>
<u>R20-1-706.</u>	<u>Application Processing and Time-frames</u>
<u>R20-1-707.</u>	<u>Scoring Applications for Accreditation</u>
<u>R20-1-708.</u>	<u>Department Responsibilities</u>
<u>R20-1-709.</u>	<u>Continuing Accreditation Requirements</u>
<u>R20-1-710.</u>	<u>Eligibility for Program Grants</u>
<u>R20-1-711.</u>	<u>Revocation of Accreditation</u>
<u>R20-1-712.</u>	<u>Appeals</u>

ARTICLE 7. ARIZONA MAIN STREET PROGRAM

R20-1-701. Definitions

In addition to the definitions in A.R.S. § 41-1501, the following definitions apply to this Article unless the context otherwise requires:

“Accreditation” or “accredited” means designated by the Department for participation in the Main Street program.

“Commercial district” means a specific physical location in which goods and services are bought and sold within a community.

“Community” means a rural city or town that has an identifiable commercial district.

“Historic asset” means a person, place, or thing that has significance to the members of a community.

“Main Street program” means the technical services, networking, training, and grant opportunities provided by the Department to an accredited community to assist the community with economic development within the context of historic preservation.

“Metropolitan Phoenix” means the following municipalities:

Avondale.
Carefree.
Cave Creek.
Chandler.
El Mirage.
Fountain Hills.
Gilbert.
Glendale.
Goodyear.
Guadalupe.
Litchfield Park.
Mesa.
Paradise Valley.
Peoria.
Phoenix.
Scottsdale.
Sun City.
Sun City West.
Surprise.
Tempe.
Tolleson, and
Youngtown.

“Metropolitan Tucson” means the following municipalities:

Marana.
Oro Valley.
Tucson, and

Arizona Administrative Register / Secretary of State
Notices of Final Rulemaking

South Tucson.

“Program” means the Arizona Main Street program authorized by A.R.S. § 41-1505.

“Program manager” means the individual authorized by the governing organization to represent an accredited community or a joint community and nonprofit organization seeking accreditation and who maintains contact with the Department.

“Rural” means having a population of less than 50,000 according to the most recent U.S. decennial census and located outside of metropolitan Phoenix and metropolitan Tucson.

R20-1-702. Communities Accredited before the Effective Date of this Article

A. A community accredited before the effective date of this Article is eligible for continued accreditation only if the community has done the following within the 12 months before the effective date of this Article:

1. Participated in at least two conference calls, retreats, or other events scheduled by the Department;
2. Submitted an annual report as described in R20-1-709(F);
3. Notified the Department regarding program changes; and
4. Attended at least one financial or economic development conference sponsored by the Department.

B. To continue accreditation, the program manager of a community that is eligible under subsection (A) shall provide to the Department written notice of intent to continue participation within 45 days after the effective date of this Article.

C. The Department shall issue a written notice of accreditation under this Article to the program manager of a community that is eligible under subsection (A) and provides the notice required under subsection (B). The Department shall issue a written notice of revocation of accreditation to the program manager of a community that is not eligible under subsection (A) or does not provide the notice required under subsection (B).

R20-1-703. Accreditation Prerequisites

A. If a community that does not meet the requirements of R20-1-702, the Department shall consider the community for accreditation only if the community complies with the competitive application requirements of this Article.

B. The Department shall not accept an application for accreditation from a community unless the community designates a program manager.

R20-1-704. Annual Application Period

A. The Department shall announce the annual application period and deadline for application for Main Street program accreditation by written notice to all communities in the state.

B. The Department shall include in its written notice the maximum number of communities that will be accredited during the application period.

C. At least 45 days before the application period, the Department shall conduct a pre-application workshop to provide information on the program and application requirements.

R20-1-705. Application for Main Street Program Accreditation

A. To apply for accreditation, the program manager shall submit to the Department an original and four copies of the following:

1. A completed application form, which is available from the Department, that provides the information required under subsection (B);
2. The narrative listed in subsection (C);
3. The supporting documents listed in subsection (D); and
4. If desired, the supporting materials listed in subsection (E).

B. The program manager shall provide the following information on the application form:

1. Information about the program manager:
 - a. Name.
 - b. Title.
 - c. Name of the organization employing the program manager.
 - d. Mailing address.
 - e. Telephone and fax numbers.
 - f. E-mail address, and
 - g. Signature.
2. Information about the community:
 - a. Name of community;
 - b. County in which community is located;
 - c. Population change over the last 20 years;
 - d. Form of local government; and
 - e. Whether the local government has agencies, ordinances, or plans supportive of economic development and historic preservation and if so, detailed information regarding the agencies, ordinances, and plans;
3. Information about the commercial district:

Notices of Final Rulemaking

- a. Number of square blocks in the commercial district;
 - b. Number of buildings in the commercial district;
 - c. Number of businesses in the commercial district;
 - d. Whether any properties within the commercial district are listed on the national or local historic register and if so, identification of each property;
 - e. Whether properties within the commercial district are subject to a local historic preservation ordinance and if so, identification of each property; and
 - f. Description of cultural features or special qualities of the commercial district.
- C.** The program manager shall submit a narrative containing:
1. The reasons for seeking program accreditation;
 2. What the community expects to achieve through program participation;
 3. An identification of any other organization within the community that supports economic development or historic preservation and the manner in which the other organization was informed about this application;
 4. A proposed budget for the program that demonstrates sustainability for three to five years;
 5. The organizational structure for the program including to whom the program manager will report and the names and types of businesses and organizations that will participate;
 6. A statement whether the community received economic development or historic preservation funds from another governmental unit within the last three years and if so, how the funds were used and what results were achieved; and
 7. A statement whether the community has participated in other federal, state, or local economic development or historic preservation programs within the last three years and if so, the names of the programs and the results of the participation.
- D.** The program manager shall submit the following supporting documents:
1. A map with an outline of the commercial district, clearly showing names and locations of all streets;
 2. A zoning map of the commercial district;
 3. The resolution supporting program participation passed by the governing entity for the community;
 4. If applicable, the bylaws of all non-profit organizations having an agreement for program participation with the community; and
 5. If applicable, a copy of the written agreement between the community and all non-profit organizations regarding joint participation in the program.
- E.** The program manager may submit letters and resolutions of support for program participation from merchants, property owners, community organizations, and other stakeholders.

R20-1-706. Application Processing and Time-frames

- A.** Within 45 days of the application deadline under R20-1-704, the Department shall perform an administrative review of each application and provide each program manager with written notice stating whether the application is accepted for scoring or rejected. The Department shall include with any notice of rejection the reason that the application did not meet the requirements of R20-1-705. The Department shall not accept another application from that community until the next application period.
- B.** The Department shall score all completed applications within 90 days of the close of the administrative review period, using the criteria in R20-1-707 to determine which communities to accredit.
- C.** At the end of the 90 days under subsection (B), the Department shall provide written notice of the score to communities and advise whether they have been accredited.

R20-1-707. Scoring Applications for Accreditation

The Department shall use the criteria in this Section to score an application for accreditation from an eligible community. The Department shall score each criterion using a scale of zero to 10 points. The Department shall accredit the communities receiving the highest score, up to the maximum established under R20-1-704.

1. How well defined is the community's expectation of and plan for participating in the Main Street program?
2. To what extent does the community have a well defined commercial district?
3. What is the potential for the Main Street program to affect the community's economic development and historic preservation efforts?
4. To what extent is there evidence of support for Main Street program participation from both the public and private sectors?
5. To what extent does the community demonstrate capacity for economic growth?
6. To what extent does the community demonstrate a historic preservation ethic?
7. To what extent does the commercial district contain historic or architecturally significant buildings capable of establishing the community's social or cultural identity?
8. To what extent does the community's proposed Main Street program budget demonstrate sustainability for three to five years?

Notices of Final Rulemaking

R20-1-708. Department Responsibilities

- A. Except for communities accredited under R20-1-702, the Department shall conduct an onsite evaluation within one year of accrediting a community and issue a written report containing findings and recommendations.
- B. The Department shall publish at least annually a schedule of conference calls, trainings, meetings, conferences, and other events available and required to maintain accreditation. The Department shall include in the schedule the dates grants may become available for accredited communities. The Department shall make the schedule available during business hours and post it on the Department's web site, www.azcommerce.com.
- C. The Department shall provide a minimum of 40 hours of training annually for accredited communities on any of the following topics:
 - 1. Redevelopment of declining commercial districts.
 - 2. Reuse of existing properties and lands.
 - 3. Sustainability of commercial districts.
 - 4. Methods of fundraising.
 - 5. Non-profit organization effectiveness.
 - 6. Real estate.
 - 7. Finance, or
 - 8. Other topics requested by Main Street program communities.
- D. The Department shall compile data from the reports provided by accredited communities under this Article into an annual document that goes to the national Main Street organization and may be used by accredited communities.

R20-1-709. Continuing Accreditation Requirements

- A. To remain accredited, a community shall meet the participation and reporting requirements of this Section.
- B. An accredited community shall authorize a new program manager within 15 days after a vacancy occurs in the program manager position. The accredited community shall provide immediate written notice to the Department of the new program manager's name, mailing address, e-mail address, and telephone and fax numbers.
- C. In each year, an accredited community shall designate at least one representative to participate in at least 85% of the conference calls, trainings, meetings, conferences, and other events scheduled by the Department under R20-1-708.
- D. An accredited community shall annually submit to the Department a letter indicating whether the community intends to continue participating in the Main Street program.
- E. No later than September 1 of each year, an accredited community shall provide to the Department annual reinvestment information as defined by the National Main Street Center.
- F. At the end of each program year, as identified in the accredited community's by-laws, an accredited community shall submit a report to the Department including:
 - 1. Program operating budget for the upcoming year;
 - 2. Goals and objectives for the upcoming year;
 - 3. Schedule of Main Street-related events for the upcoming year;
 - 4. Prior year accomplishments;
 - 5. Current list of members of the board of directors for the Main Street program; and
 - 6. Name, address, and telephone and fax numbers of the program manager.
- G. An accredited community shall submit a report to the Department by the last business day of April, July, October, and January, containing:
 - 1. The name of the accredited community and the period covered;
 - 2. The name, telephone number, and e-mail address of the contact person for the report;
 - 3. Major accomplishments during the reporting period;
 - 4. Barriers met during the reporting period;
 - 5. Other issues impacting the program;
 - 6. Changes in the program's board of directors;
 - 7. Changes, if any, in the boundaries of the program area, with:
 - a. A resolution approving the changes from the community's governing entity and the program board of directors, and
 - b. A street map showing the current program boundaries.

R20-1-710. Eligibility for Program Grants

- A. Except as provided in subsection (B), an accredited community may apply for grant funding according to the schedule under R20-1-708. The Department shall award grants, when funding is available, under the procedures in A.R.S. § 41-2701 et seq.
- B. The Department shall suspend an accredited community's eligibility for grants if the accredited community fails to meet the requirements of R20-1-709. The Department shall provide written notice to the community's governing entity and the program manager explaining the requirement that must be met and allowing 30 days from the date of the written notice for the accredited community to comply. If the accredited community does not comply by the date specified in the notice, the

Notices of Final Rulemaking

Department shall provide written notice to the program manager that grant eligibility is suspended until compliance is achieved and provide notice for revocation of accreditation under R20-1-711.

R20-1-711. Revocation of Accreditation

- A.** The Department shall provide written notice to the community's governing entity and the program manager of any accredited community that fails to comply with R20-1-709 for more than 120 days. The Department shall include a copy of this Section with the notice.
- B.** The program manager may provide the Department with a written statement of intent to maintain accreditation within 60 days of the date of the Department's notice under subsection (A).
- C.** If the Department does not receive the statement of intent to maintain accreditation described in subsection (B), the Department shall provide written notice to the community's governing entity and the program manager that the community is no longer accredited. To become accredited again, the community shall meet all of the competitive application requirements of this Article.
- D.** If the program manager provides a statement of intent to maintain accreditation as described in subsection (B), the accredited community has 120 days from the date of the statement to be in full compliance with R20-1-709.
- E.** If the accredited community is not in full compliance with R20-1-709 within the 120 days provided under subsection (D), the Department shall provide written notice to the community's governing entity and the program manager that the community is no longer accredited. To become accredited again, the community shall meet all of the competitive application requirements of this Article.

R20-1-712. Appeals

- A.** The community's governing entity or the program manager of an accredited community whose accreditation is revoked or whose eligibility for grant funding is suspended by the Department may file an appeal with the Department by submitting a letter to the Director providing the reason for appealing the decision within 30 working days after the date on the written notice.
- B.** The Director shall review the substance of the appeal and respond in writing within 30 working days after receiving the appeal letter.
- C.** An appeal of the Director's decision is conducted under A.R.S. Title 41, Chapter 6, Article 10, and the rules established by the Office of Administrative Hearings.